THE HON'BLE SRI JUSTICE A.V. SESHA SAI

WRIT PETITION No.24548 of 2006

Between:

1. Konduru Padmavathi

PETITIONER

AND

1. The District Collector/Land Acquisition Officer, Nellore, and others.

RESPONDENTS

ORDER:

Initially, the petitioner herein filed the writ petition challenging the draft notification issued by the District Collector, Nellore under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to 'the Act') vide proceedings RCG5/4109/2006, dated 22.07.2006 to the extent of the lands of the petitioner in S.No.318/1 admeasuring Ac.4.26 cents and Sy.No.331/13-A admeasuring Ac.0.81 cents situated at Menakur Village, Nayudupet Mandal, Nellore District. Vide orders in W.P.M.P.No.7545 of 2014, this Court permitted the petitioner to question the award passed in proceedings Rc.No.A 2688/2006 (Award No.34/2006-07) dated 23.12.2006.

2. Heard Smt. A. Anasuya, learned counsel for the petitioner, learned Government Pleader for Land Acquisition for respondents 1 and 2 and Sri P. Roy Reddy, learned Standing Counsel for the 3rd respondent-Corporation.

3. The material available on record discloses that the District Collector, Nellore issued a draft notification vide proceedings RCG5/4109/2006, dated 22.07.2006 proposing to acquire a total extent of Ac.120.02 cents for the 3rd respondent-Corporation for establishment of Industrial Park including the lands of the petitioners admeasuring Ac.4.26 cents in S.No.318/1 and Ac.0.81 cents in Sy.No.331/13-A of Menakuru Village of Nayudupeta Revenue Mandal, Nellore District. Draft declaration under Section 6 of the Act was also issued on 31.08.2006 and an Award was also passed on 23.12.2006 by the Sub Collector-cum-Land Acquisition Officer, Guduru vide Award No.34/2006-07 dated 23.12.2006. The said award is placed on record by the petitioner along with the

amendment petition. A perusal of the said award would clearly and categorically show that the amount payable to the petitioners in respect of the subject land, was kept in revenue deposit.

4. At this juncture it is apt and appropriate to mention that the Government of India brought in a legislation called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013 in the place of Land Acquisition Act, 1894. Section 24 of the said legislation reads as under.

> Section 24: Land acquisition process under Land Acquisition Act, 1894 shall be deemed to have lapsed in certain cases: -
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> 1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,-
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> a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation, rehabilitation and resettlement shall apply; or
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> b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.
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> 2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act;
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> Provided that where an award has been made and compensation in respect of a majority of land holdings has not been accepted, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

5. From a reading of sub-section (2) of Section 24 of the above

mentioned legislation, it would very much manifest that where an award under Section 11 of the Land Acquisition Act, 1894 has been made five years or more prior to the commencement of the new legislation but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have been lapsed and it would be open for the appropriate Government to initiate the proceedings of such land acquisition afresh in accordance with the provisions of 2013 Act, which came into force from 01.01.2014.

6. The Hon'ble Supreme Court in the case of **Pune Municipal Corporation v. Harakchand Misirimal Solanki vide order dated 24.01.2014 in Civil Appeal No.877 of 2014** at paragraphs 13 and 14 held as under.

> "19. Now, this is admitted position that award was made on 31.01.2008. Notices were issued to the landowners to receive the compensation and since they did not receive the compensation, the amount (Rs.27 crores) was deposited in the government treasury. Can it be said that deposit of the amount of compensation in the government treasury is equivalent to the amount of compensation paid to the landowners/persons interested? We do not think so. In a comparatively recent decision, this Court in Agnelo Santimano Fernandes[2], relying upon the earlier decision in Prem Nath Kapur[3], has held that the deposit of the amount of the compensation {(1) Nazir Ahmad v. King Emperor – AIR 1936 Privy Council 253(2); 2) Ivo Agnelo Santimano Fernandes and ors v. State of Goa and Anor – (2011) 11 SCC 506; 3) Prem Nath Kapur v. National Fertilizers Corpn. Of India Ltd., - (1996) 2 SCC 71} in the state's revenue account is of no avail and the liability of the state to pay interest subsists till the amount has not been deposited in court.
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> 20. From the above, it is clear that the award pertaining to the subject land has been made by the Special Land Acquisition Officer more than five years prior to the commencement of the 2013 Act. It is also admitted position that compensation so awarded has neither been paid to the landowners/persons interested nor deposited in the court. The deposit of compensation amount in the government treasury is of no avail and cannot be held to be equivalent to compensation paid to the landowners/persons interested. We have, therefore, no hesitation in holding that the subject land acquisition

proceedings shall be deemed to have lapsed under Section 24(2) of the 2013 Act."

7. In the instant case also though the Sub-Collector-cum-Land Acquisition Officer passed award as long back as on 23.12.2006, as per the said award the authorities kept the compensation amount in revenue deposit. In view of the mandatory provisions of the new legislation 2013 and in view of the law laid down by the Hon'ble Supreme Court in the above referred judgment, such revenue deposit would not amount to payment of amount of compensation to the petitioner and in the considered opinion of this Court, the impugned proceedings, which culminated in the award dated 23.12.2006 cannot stand for judicial scrutiny, and the same are liable to be invalidated.

8. For the aforesaid reasons and having regard to the principles laid down by the Hon'ble Supreme Court in the above referred judgment, this writ petition is allowed and the impugned proceedings, which culminated in passing of award by the Sub-Collector, Gudur-cum-Land Acquisition Officer vide proceedings Rc.No.A 2688/2006 (Award No.34/2007-07) are hereby quashed. However, it is open for the respondent-authorities to initiate fresh proceedings, if they choose to do so, for acquiring the land. No order as to costs. As a sequel, W.P.M.Ps. if any shall stand closed.

JUSTICE A.V. SESHA SAI.

29th April, 2014
Js.